IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division

THOMAS D. DOMONOSKE, *and others similarly situated* Plaintiff, v. BANK OF AMERICA, N.A. Defendant.	Civil No. 5:08cv00066
VICTOR RIVERA, *and others similarly situated* Plaintiff, v. BANK OF AMERICA, N.A. Defendant.	Civil No. 5:09cv00090

DECLARATION OF LEONARD A. BENNETT

I, Leonard A. Bennett, depose upon my oath and declare the following to be true and correct:

I am a member in good standing of the Virginia State Bar. I have personal knowledge of the matters set forth herein, and could and would testify competently thereto if called upon to do so. I submit this Declaration in support of Plaintiffs' Submission of Detailed Time Records as ordered by the Court.

BACKGROUND AND EXPERIENCE

1. I am one of the attorneys working on behalf of the Plaintiffs in the above styled litigation, and I am an attorney and a principal of Consumer Litigation Associates, P.C., a law

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firm with offices in Hampton Roads, and Fairfax, Virginia. My primary office is at 12515 Warwick Boulevard, Suite 100, Newport News, Virginia 23606.

2. Since 1994, I have been and presently am a member in good standing of the Bar of the highest court of the State of Virginia, where I regularly practice law. Since 1995, I have been and presently am a member in good standing of the Bar of the highest court of the State of North Carolina. I have also been admitted to practice before and am presently a member in good standing of the Bars of the following courts: United States Supreme Court; United States Court of Appeals for the Third Circuit; United States Court of Appeals for the Fourth Circuit; United States Court of Appeals for the Ninth Circuit; and United States District Courts for the Eastern District of Virginia, Western District of Virginia, Eastern, Middle and Western Districts of North Carolina; District of Wisconsin; Eastern District of Michigan and Northern District of Illinois.

3. I have been admitted *pro hac vice* in jurisdictions across the country including by example only: California, Florida, Rhode Island, New Hampshire, Connecticut, Ohio, South Carolina, Pennsylvania, Hawaii, Texas, Alabama, Wyoming, Arizona, Washington and Maryland. I have never been denied admission *pro hac vice*.

4. For over a decade, my practice has been limited to consumer protection litigation. While my experience representing consumers has come within several areas, my most developed area of expertise is in plaintiff's litigation specifically under the Federal Fair Credit Reporting Act, in which I practice at least 75% of my docket.

5. I have now been invited by the House Financial Services Committee to testify before Congress about the Fair Credit Reporting Act and/or the Credit Repair Organizations Act on four occasions.

6. Since 2001, I have been asked to and did speak at numerous seminars and events regarding the Fair Credit Reporting, or in the broader area of consumer protection litigation, at least forty times and have done so for the Virginia State Bar, Texas State Bar, Oklahoma State

Bar, Washington State Bar, ABA, Army and Navy Judge Advocate training, national consumer protection conferences and at law schools in Santa Clara, CA, Wilmington, DE and Spokane, WA.

7. I have litigated in excess of 350 federal cases under the Fair Credit Reporting Act, and in excess of 450 federal cases overall. Since 2004, my four-attorney law firm has maintained one of the largest civil federal dockets in the Eastern District of Virginia. As of the date of this declaration, I have lost only seven federal cases at trial or by dispositive motion. I have been lead, co-lead or executive committee counsel in approximately twenty class action cases that were certified either via contested motion or in settlement. I have also been lead, co-lead or executive committee counsel in three of the four largest FCRA class settlements (not including the present case) in the gross common fund amounts of $51 million, $22 million and $6.89 million.

8. Matthew J. Erausquin, a partner in my law firm, is and has been, active in litigating this case. He is admitted to practice before this Court, as well as before the Supreme Courts of California and Virginia, in addition to numerous federal courts around the country. Mr. Erausquin litigates exclusively in federal courts, and in addition to our core Fair Credit Reporting Act litigation, he also assists our clients with prosecuting claims against payday lenders, abusive debt collectors, and credit repair agencies. As a former active duty Air Force officer, Mr. Erausquin regularly advises our active duty military clients in numerous areas relating to the practical impact of credit reporting inaccuracies on their daily lives, including the retention of their security clearances.

9. My work in this case, as well as that of Mr. Erausquin, was most significant with regard to facts, legal questions, and challenges unique to Fair Credit Reporting Act (FCRA) litigation.

11. These tasks were typical of the role that my firm played in this litigation, given that our firm has substantial and specialized experienced litigating almost exclusively under the FCRA, particularly in individual accuracy cases.

COUNSEL'S TIME AND EXPENSES

12. I have personally been highly responsible for the briefing that took place in the *Rivera* matter, and in *Domonoske* since my involvement became active in May of 2009. I have also shared or taken the lead with regard to the mediation efforts and negotiation in these matters.

13. I and the attorneys and paralegals in my law firm have spent time on this litigation that could have been spent on other matters. At various times during the litigation, the active prosecution of the claims has consumed a substantial percentage of my billable time that could otherwise have been spent on other fee-generating work.

14. The time my firm has spent on this case has been completely contingent on the outcome of the action. We have not been paid for any of the time spent on the action.

15. In connection with the litigation, our attorney and staff timekeepers have billed a combined total of more than 617.2 hours from inception to December 16, 2009. For example, this figure does not include work performed by 3 paralegals in the Newport News office, or 1 paralegal in the Alexandria office. A portion of this time represents our best estimate of attorney spent following the preliminary approval hearing to respond the Court's inquiries. (76 hours). Our time is obtained from documented hourly billing, and as supplemented by a more recent cross-check against telephone records, communication logs, our Time Matters case management system, our email logs, and our calendars. The hourly time stated herein represents a very conservative estimate of the time spent in this matter. For example, I am confident that there were numerous hours spent in teleconferences with counsel for Bank of America, my co-counsel and my clients that are not recorded herein.

16. Based on my experience as Class Counsel in multiple class cases in which cash settlements were approved and administered, I am certain that a significant part of the case remains ahead of us. The size of the class alone guarantees a large number of direct contacts, by email, telephone and postal letter, from class members. These contacts will request further information about the case, the settlement or the claims process. While many of these contacts will be satisfactorily resolved by the class administrator or by my staff, not a small number will require direct contact with counsel. There also remains the likelihood of "greenmail" objectors who object without merit in a manner to increase litigation time and expense as a means to extract fees from Plaintiffs' counsel or Defendant. Further, the most significant work to support a class settlement is the Final Approval, or Fairness hearing. Accordingly, I would reasonably estimate that the attorneys in this case will collectively incur several hundreds of additional hours of attorney work.

17. Based upon my experience with other class action matters, I believe that the time expended by my law firm in connection with this litigation, particularly when compared to the result achieved for the Class, is reasonable in amount and was necessary to ensure the successful monetary relief obtained on behalf of the Class.

18. While I recognize that these rates are high for litigation in this District, I have been approved at an hourly rate of $450 in the Richmond Division of the Eastern District of Virginia and at higher rates in class action litigation outside Virginia.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was signed in Newport News, Virginia, on December 18, 2009.

/s/
Leonard A. Bennett